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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.        | CONFIRMATION NO.       |
|---|-------------|----------------------|----------------------------|------------------------|
| 10/509,820  | 07/15/2005  | Barbara Ammer        | AMMER ET A 3 PCT           | 8133                   |
| 25889   | 7590        | 06/27/2007           |                            |                        |
| WILLIAM COLLARD<br>COLLARD & ROE, P.C.<br>1077 NORTHERN BOULEVARD<br>ROSLYN, NY 11576 |             |                      | EXAMINER<br>HOEY, ALISSA L |                        |
|   |             |                      | ART UNIT<br>3765           | PAPER NUMBER           |
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/509,820

Applicant(s)

AMMER ET AL.

Examiner

Alissa L. Hoey

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 04/23/07
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

1. This is in response to amendment received on 04/23/07. Claims 1-6 have been amended and are examined below. There have also been amendments to the specification and an information disclosure statement has been submitted. The specification amendment has not been entered as discussed below.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. The limitation of "for the decrease of sweating an aluminum-chlorate strip 7 is inserted along the longitudinal direction of the pad 2." Will not be entered into the specification. The specification originally included identifier 7 as the underarm panel and therefore the newly added limitation is not needed and is considered new matter not disclosed in the original disclosure.

### ***Specification***

4. The disclosure is objected to because of the following informalities: the term welding seems to not be correct, since welding done to either metals or plastic, not adhesives and plastic.

Appropriate correction is required.

*Examiner notes that this is still a problem. The definition in the dictionary for welding does not allow a plastic and an adhesive to be secured together. The term is*

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*incorrect for the purpose of the invention and needs to be changed in the claims and specification.*

5. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: in claim 1, the term “sheet bonded to the sections” is not found in the specification.

6. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: in claim 1 the term “sheet” is not found in the specification.

7. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: in claim 3 “self-adhesive sheet comprising a plurality of boundary strips bounded” is not found in the specification.

8. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: in claim 6 the term “sheet” is not found in the specification.

### ***Drawings***

9. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, “the self-adhesive sheet comprises a plurality of boundary strips bonded to the edges of the pad sections”

of claim 3 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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11. Claims 1 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Oliver (US 2,818,572).

In regard to claim 1, Oliver teaches a perspiration pad (1, 2) for insertion to a user's armpit (figure 1). The perspiration pad having an absorbent pad comprising two mutually bendable sections (1, 2, 1a, 1b, 2a, 2b, 3a, 3b) and a self-adhesive sheet (4) bonded to the sections and projecting beyond the edge of the pad, wherein the self-adhesive film is interrupted at least in the bending region of the two sections of the pad (figures 8 and 9 and column 1, lines 42-55).

In regard to claim 5, Oliver teaches the perspiration pad has a substantially trapezoid configuration (figures 8).

12. Claims 1, 3 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Vadekerck (US 2,669,720).

In regard to claim 1, Vadekerck teaches a perspiration pad (10) for insertion to a user's armpit (figure 5). The perspiration pad having an absorbent pad comprising two mutually bendable sections (figures 1 and 4) and a self-adhesive sheet (15) bonded to the sections and projecting beyond the edge of the pad, wherein the self-adhesive sheet is interrupted at least in the bending region of the two sections of the pad (figures 1, 2 and 4 and column 3, lines 5-14).

In regard to claim 3, Vadekerck teaches the self-adhesive sheet (15) comprising a plurality of boundary strips bonded to the edges of the pad sections (figures 1, 3, 4 and column 3, lines 5-14).

In regard to claim 6, Vadekerck teaches the self-adhesive sheet being bonded together with the pad in the boundary region of the pad (column 2, lines 13-31).

***Claim Rejections - 35 USC § 103***

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Oliver in view of Bradley (US 3,345,643).

Oliver teaches a perspiration pad as described above in claim 1. However, Oliver fails to teach at least one curved bending line being provided in the bending region of the pad.

Bradley teaches a perspiration pad with at least one curved bending line being provided in the bending region of the pad.

It would have been obvious to have provided the perspiration pad of Oliver with the curved bending lines of Bradley, since the perspiration pad of Oliver provided with curved bending lines would provide even greater comfort to the user during movement when wearing the perspiration shield.

15. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vandekerck in view of Morris (US 3,346,878).

Vandekerck teaches a perspiration pad as described above in claims 1 and 3. However, Vandekerck fails to teach the pad being covered in a liquid-tight but gas-

permeable way on the side averted from the skin both between the boundary strips of the self-adhesive sheet as well as in the benign region.

Morris teaches a perspiration pad being covered in a liquid-tight but gas-permeable way on the side averted from the skin both between the boundary strips of the self-adhesive film as well as in the bending region (column 3, lines 1-11, lines 47-53 and column 4, lines 5-15).

It would have been obvious to have provided the perspiration pad of Vandekerck with the liquid-tight and gas permeable backing portion of Morris, since the perspiration pad of Vandekerck provided with the liquid-tight gas permeable backing portion would provide a perspiration pad that not only keeps perspiration from contacting the user's garments, but also a comfortable, breathable pad that is comfortable to wear.

### ***Response to Arguments***

16. Applicant's arguments filed 04/23/02 have been fully considered but they are not persuasive.

1) Applicant argues that Oliver fails to teach a self-adhesive sheet bonded to the two mutually bendable sections of an absorbent pad. Wherein the self-adhesive sheet is interrupted in at least a bending region of the two sections of the pad.

Examiner disagrees since Oliver teaches a region of the adhesive interrupted in two portions of the bending region (see figures 8 and 9). The ends of bending region comprises an interrupted self-adhesive sheet. Therefore the Oliver reference teaches the limitations as claimed.



II) Applicant argues the Vandekerck fails to teach interruption of layers 11 and 19 in the bending region 14.

Examiner disagrees, since Vandekerck teaches the self-adhesive layer (15 see figures 1, 4 and 3) being interrupted in the bending region (identifier 14, figures 1 and 11). Examiner does not understand how identifiers 11 and 19 have any relevance to the self-adhesive layer and the interrupted region. Therefore self-adhesive layer 15 is interrupted at the bending region 14, clearly shown in figure 3.

III) Applicant argues that Bradley fails to teach a perspiration shield secured to an underarm portion.

Examiner notes that the Bradley reference was used in combination with another reference. The Bradley references was used to show the teaching of a perspiration pad having at least one curved line in the bending region of the pad. The pad region with curved line weather attached to the garment or the user's skin would provide even greater comfort to the user during movement when wearing the shield.

### ***Conclusion***

17. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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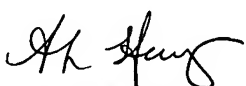
shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alissa L. Hoey whose telephone number is (571) 272-4985. The examiner can normally be reached on M-F (8:00-5:30) Second Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Welch can be reached on (571) 272-4996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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